

# EXHIBIT B

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - -

SITEONE LANDSCAPE SUPPLY,  
LLC,

Civil Action No.

Plaintiff, 2:23-CV-2084 (GRB) (SL)

v.

NICHOLAS GIORDANO; DOMINICK CAROLEO;  
VICTOR CAROLEO; NARROW WAY REALTY, LTD.;  
NARROW WAY 2 LLC; THE GARDEN DEPARTMENT  
CORP.; GROUP 5 ASSOCIATES, LTD.; 3670  
ROUTE 112 LLC; 9 4TH ST. LLC; SCAPES  
SUPPLY, LLC; NEWAY MANAGEMENT, LLC; AND  
NEWAY TRUCKING,

Defendants.

- - -

March 14, 2025

- - -

Videotaped deposition of  
DOMINICK CAROLEO, conducted at 400 RXR  
Plaza, Uniondale, New York, commencing at  
10:00 a.m. EDT, on the above date.

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Marie Foley

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14

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16 Alejandro Gomez

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2	- - -	
3	TRANSCRIPT INDEX	
4		PAGE
5	APPEARANCES.....	2 - 3
6	INDEX OF EXHIBITS.....	6
7	EXAMINATION OF DOMINICK CAROLEO:	
8	BY: MR. GIBBS.....	10
9	SIGNATURE PAGE.....	94
10	ERRATA.....	95
11	REPORTER'S CERTIFICATE.....	96

12

13 EXHIBITS WITH ORIGINAL TRANSCRIPT

14

15 - - -

16

17

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FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND  
AGREED by and between the parties hereto,  
through their respective counsel, that the  
certification, sealing and filing of the  
within examination will be and the same  
are hereby waived;

IT IS FURTHER STIPULATED AND  
AGREED that all objections, except as to  
the form of the question, will be reserved  
to the time of the trial;

IT IS FURTHER STIPULATED AND  
AGREED that the within examination may be  
signed before any Notary Public with the  
same force and effect as if signed and  
sworn to before this Court.

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PLAINTIFF'S	DESCRIPTION	PAGE
1	Email thread March 21, 2023	15
2	Email 15 Jul 2023, Bates DonCaroleo_000456-457	47

(REPORTER'S NOTE: All quotations from exhibits are reflected in the manner in which they were read into the record and do not necessarily denote an exact quote from the document.)

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2 DEPOSITION SUPPORT INDEX

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4 DIRECTION TO WITNESS NOT TO ANSWER

5 Page Line Page Line

6 26 11 87 9

7 49 4 88 11

8 51 6 88 18

9 53 23 89 4

10 54 15 89 11

11 54 23 90 7

12 87 3

13

14

15 REQUEST FOR PRODUCTION OF DOCUMENTS

16 Page Line

17 - -none- -

18

19

20 STIPULATIONS

21 Page Line

22 5 4

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10:12 a.m. EDT

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THE VIDEOGRAPHER: We are now on the record. This begins videotape number 1 in the deposition of Dominick Caroleo in the matter of SiteOne Landscape Supply, LLC versus Nicholas Giordano, et al., in the United States District Court, Eastern District of New York, Case No. CV-02084.

13

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Today is March 14th, 2025. The time on the monitor is 10:12 a.m.

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This deposition is being taken at Farrell Fritz PC, Uniondale, New York.

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The videographer is Alejandro Gomez of Magna Legal Services, and the court reporter today is Marie Foley of Magna Legal Services.

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Will counsel and all parties present state their appearances and whom they represent.

25

MR. GIBBS: This is Evan Gibbs

1

2 on behalf of SiteOne Landscape, LLC.

3 MR. MULRY: Kevin Mulry from  
4 Farrell Fritz, also on behalf of  
5 plaintiff SiteOne Landscape, LLC.

6 MR. LABUDA: Good morning. Joe  
7 Labuda for the defendants.

8 MR. MULE: Michael Mule for the  
9 defendants.

10 THE VIDEOGRAPHER: Will the  
11 court reporter please swear in the  
12 witness.

13 THE STENOGRAPHER: If I could  
14 ask you to raise your right hand,  
15 please.

16 Do you swear or affirm the  
17 testimony you give will be the truth,  
18 the whole truth, and nothing but the  
19 truth today?

20 THE WITNESS: I do.

21 THE STENOGRAPHER: Thank you.

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2 thinking at that point.

3 Q. Are you aware currently as we  
4 sit here today that you have an obligation  
5 to preserve documents and communications  
6 for purposes of the lawsuit?

7 A. Repeat that.

8 Q. Sure.

9 As you sit here today, are you  
10 currently aware that you have an  
11 obligation to -- to preserve and retain  
12 documents and communications for purposes  
13 of the lawsuit?

14 A. Yes.

15 Q. When did you first become aware  
16 of that obligation?

17 A. I don't remember.

18 Q. How did you first become aware  
19 of that obligation?

20 MR. LABUDA: I'm just going to  
21 instruct the witness not to disclose  
22 any attorney/client privileged  
23 communication, any attorney/client  
24 communications you had. So exclude  
25 that from your answer. But you can

1

2 answer the question.

3 A. Repeat the question.

4 Q. How did you become aware that  
5 you had an obligation or that you have an  
6 obligation to preserve and retain  
7 documents for this case?

8 MR. LABUDA: Same objection, but  
9 you can answer.

10 A. I was told.

11 Q. And who was it that told you  
12 that?

13 MR. LABUDA: We're going to  
14 object.

15 Do we need to discuss whether or  
16 not this requires a -- a privileged  
17 communication? I'm asking you --

18 A. It would be a privileged  
19 communication.

20 Q. My -- so, my only question is  
21 who told you. That's the -- that's the  
22 limit of the question.

23 MR. LABUDA: I think we got  
24 to -- we got to take a break for a  
25 second 'cause I'm not sure he's

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understanding my instructions.

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MR. GIBBS: Let's see. Let me see if there may be -- give me one second.

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MR. LABUDA: So just -- just to be clear, you know, when I'm saying exclude any conversations, so that let's say you did have a conversation with an attorney about disclosing this and that was the only conversation that you had, you would exclude that conversation from your answer.

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If anyone else in the universe other than your attorneys disclosed or discussed that with you that was a non-attorney, then you would answer that question. But I don't want you to disclose any conversations that you had with any attorneys.

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A. What was the question again?

Q. Sure.

My question's limited to the identity, so just a name, I'm only asking for a name of the person who first made



1

2 you aware of your obligation to retain  
3 documents and communications in this case.

4 MR. LABUDA: But I think it's  
5 the -- the earlier question is the one  
6 that I want to make sure that there's  
7 clarity on. I don't want to be  
8 difficult, but I don't know if  
9 that's -- if his answer subjected that  
10 to attorney/client privileged  
11 communications. It seems like from  
12 what he said it does, so.

13 MR. GIBBS: Well, my only -- my  
14 only -- I am only asking for a name.  
15 So if your position is that him  
16 disclosing the name is privileged,  
17 then, you know, you can instruct him  
18 not to answer. But to be clear, I'm  
19 only asking for a name.

20 A. I don't --

21 MR. LABUDA: No, I understand  
22 that. My -- my issue is not  
23 necessarily with that particular  
24 question. It's the question before  
25 that --

1

2 MR. GIBBS: Okay.

3 MR. LABUDA: -- that is the

4 follow-up to this question.

5 BY MR. GIBBS:

6 Q. Well, I will -- I will limit my  
7 question. The question I'm posing to you,  
8 I'm limiting it now to what is the  
9 identity of the person who first told you  
10 that you have an obligation to preserve  
11 documents and communications in this case?

12 MR. LABUDA: Okay. And so then  
13 what I'm going to instruct the witness  
14 is -- let's -- you know, let's --  
15 because I think, again, I think we're  
16 putting the cart before the horse.

17 If you don't mind, you know,  
18 what I would prefer is to ask the  
19 question as to whether or not, you  
20 know -- you know, ask the initial  
21 question about the -- who -- if he was  
22 told by somebody, and then I'm going  
23 to just raise that same objection  
24 again 'cause I think it's -- it's an  
25 issue that he's -- like, I don't think

1  
2 he necessarily was understanding my  
3 instruction in terms of limiting it.  
4 I -- I mean, I guess I -- we can ask  
5 it a different way which is --

6 MR. GIBBS: I'm going to -- I'm  
7 going to keep the question exactly as  
8 I had it.

9 MR. LABUDA: Okay.

10 MR. GIBBS: I don't think that  
11 the identity in any way discloses a  
12 privilege. I don't know how that  
13 would.

14 MR. LABUDA: No, I'm not --

15 MR. GIBBS: If he tells me the  
16 name of somebody, I don't know how  
17 that discloses a privilege. So I'll  
18 ask my question --

19 MR. LABUDA: Yes, but the  
20 point -- so let's just take a break  
21 for a second because I got to just --  
22 I got to make sure that I'm on the  
23 same page because I think there's  
24 privileged communications that he's  
25 discussing that I want to just



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2 preserve. So let's just take a break  
3 for a second 'cause I want to just  
4 make sure that I have it.

5 MR. GIBBS: All right.

6 THE VIDEOGRAPHER: Okay. We are  
7 going off the record.

8 The time is 10:22.

9 (Recess taken.)

10 THE VIDEOGRAPHER: We are going  
11 back on the record.

12 The time is 10:26.

13 MR. LABUDA: So, the witness --  
14 I think this will be helpful. The  
15 witness wanted to clarify an earlier  
16 answer to a question that you had  
17 raised about if he was aware of his  
18 obligation --

19 MR. MULE: No, how he became  
20 aware.

21 MR. LABUDA: How he became aware  
22 of his obligation to preserve  
23 documents. I had --

24 MR. GIBBS: Well, let's -- well,  
25 I'll go through my questions, and he's

1

2 free to, you know, answer however he  
3 would like, but...

4 MR. MULE: Well, first he wants  
5 to clarify.

6 MR. LABUDA: Yeah, he just wants  
7 to clarify it.

8 So, with respect to that  
9 question, Mr. Caroleo.

10 THE WITNESS: Yeah.

11 So, you asked me a question --

12 MR. LABUDA: And I had -- I had  
13 an objection and instruction for you  
14 not to disclose any attorney/client  
15 privileged communications, and you had  
16 answered --

17 THE WITNESS: Yeah, excluding --  
18 (Stenographer admonition on  
19 crosstalk.)

20 MR. LABUDA: You had answered "I  
21 was told." And what I want to ask is  
22 I want you to clarify your answer in  
23 terms of excluding any attorney/client  
24 privileged communications.

25 THE WITNESS: No -- no one -- no

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2           one told me excluding my attorney  
3           conversations.

4 BY MR. GIBBS:

5           Q.       So, I'm going to re-ask the  
6           question to make sure that we have a clear  
7           record.

8           A.       Okay.

9           Q.       My -- I believe the question you  
10          were answering is did anyone other than  
11          your lawyers instruct you for purposes of  
12          this case that you had an obligation to  
13          retain and preserve documents and  
14          communications?

15          A.       No.

16          Q.       No one other than attorneys gave  
17          you that instruction?

18          A.       No.

19                  MR. LABUDA: Objection, but you  
20          can answer.

21          A.       No.

22          Q.       What is the name of the first  
23          person who instructed you that you have an  
24          obligation to retain or preserve documents  
25          and communications for this case?

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2 MR. LABUDA: And same objection.

3 Just don't disclose any

4 conversations. Excluding any attorney

5 conversations.

6 A. I really don't remember.

7 Q. Did an attorney at the Milman

8 Labuda firm ever tell you that you need to

9 preserve documents and communications for

10 purposes of this lawsuit?

11 MR. LABUDA: Object and direct

12 him not to answer that;

13 attorney/client privilege.

14 BY MR. GIBBS:

15 Q. Did you receive a document from

16 the Milman firm called or referred to as a

17 "Litigation Hold" letter or memo?

18 MR. LABUDA: You can answer the

19 question.

20 A. No.

21 Q. At some point in this case, you

22 became aware that you have an obligation

23 to preserve documents and communications,

24 correct?

25 A. Yeah, I think we did this

1

2 question already, right?

3 Q. We did. I'm just re-asking it  
4 because I had some follow-up questions to  
5 it, and it was earlier in the questioning.

6 A. So, I think my answer was yes if  
7 I was to -- repeat the question. I just  
8 want to make sure.

9 Q. Sure.

10 So, you came to understand at  
11 some point during this litigation that you  
12 had an obligation to preserve and retain  
13 documents and communications for the case,  
14 correct?

15 A. Yes.

16 Q. Were you -- was it -- was it  
17 your understanding that you had to  
18 preserve emails?

19 A. I don't remember.

20 Q. Was it your understanding that  
21 you had to preserve text messages?

22 A. I don't remember the exact  
23 conversation and what was told.

24 Q. Do you remember --

25 MR. LABUDA: I'll object to

1

2 anything to do with a conversation.

3 Exclude those.

4 THE WITNESS: Okay.

5 BY MR. GIBBS:

6 Q. Do you remember if you were --  
7 if you understood that you had an  
8 obligation to preserve any other types of  
9 documents for purposes of the case?

10 A. I don't remember.

11 Q. Do you remember approximately  
12 when you became aware of your preservation  
13 obligations?

14 A. No, I don't.

15 Q. Have you ever discussed the  
16 preservation of communications or  
17 documents with Vic Caroleo?

18 A. I don't recall.

19 Q. And same question but with  
20 respect to Nick Giordano.

21 A. I don't believe so.

22 Q. Was your current cell phone  
23 searched for text messages and other  
24 relevant communications as part of  
25 discovery in this case?



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2 October of 2022?

3 A. Yes.

4 Q. And what's the make and model of  
5 your current phone?

6 A. It's a Apple phone.

7 Q. So it's an iPhone?

8 A. An iPhone.

9 Q. Do you know is it like an  
10 iPhone 15?

11 A. I don't -- I don't know that  
12 without looking --

13 Q. That's fine.

14 A. -- in the settings.

15 Q. I couldn't answer that question  
16 either.

17 A. Yeah.

18 Q. Who is your mobile carrier?

19 A. Verizon.

20 Q. How long have you had Verizon?

21 A. I don't recall.

22 Q. Your current phone, when did you  
23 purchase that device?

24 A. You're asking me about the  
25 current phone, correct?

1

2 Q. Correct.

3 A. I don't recall exactly, but it  
4 was in the last four months.

5 Q. Would you say approximately  
6 December 2024?

7 A. Approximately.

8 Q. Where did you purchase the  
9 phone?

10 A. At a Verizon store.

11 Q. Was there any particular reason  
12 that you got a new phone?

13 A. My phone, my previous phone from  
14 this one was broken. The screen was  
15 broken; the glass was broken. I broke it  
16 at a Yankee game. And my finger was  
17 starting to become -- my thumb was  
18 starting to get cut from the glass, so  
19 I -- I got a new phone.

20 Q. Did you transfer the data from  
21 your old phone to your current phone?

22 A. I told the technician what I  
23 wanted done, and that was what I told him.

24 Q. To transfer all the data?

25 A. To transfer all the data I



1

2 didn't want.

3 Q. And as far as you know, that was  
4 done?

5 A. Yes, as far as I know.

6 Q. What did you do with your old  
7 phone when you got your new one?

8 A. I gave it to Verizon.

9 Q. At the time when you turned in  
10 your old phone, did you know at that time  
11 that you were -- you had an obligation in  
12 the case to preserve data and  
13 communications in connection with the  
14 data?

15 A. I don't recall what I remember  
16 at that point about the case.

17 Q. Do you have an iCloud account?

18 A. I'm not positive.

19 Q. On your current phone, how long  
20 is it set to store text messages?

21 A. I have no idea.

22 Q. And on your prior phone, do you  
23 know what that setting was on that device?

24 A. No, I don't.

25 I'm sorry, can -- I might need

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2 a lot, and there was times where we're in  
3 litigation together so we would discuss  
4 the litigation.

5 I'm not sure if that was  
6 overelaborating your question if you asked  
7 me about texts, but I think it was more on  
8 the phone at that point.

9 Q. And just to make sure we're  
10 clear, so your answer when you said that  
11 you would talk about the litigation and  
12 things of that, you meant those were phone  
13 conversations you mean?

14 A. I don't recall exactly how we  
15 communicated every time. All I know is  
16 that I've spoken to Nick in the last, you  
17 know, two years.

18 Q. Since the beginning of the  
19 lawsuit in March of 2023, have you deleted  
20 any text messages with Nick, either on  
21 your current phone or on your prior phone?

22 MR. LABUDA: Objection.

23 But you can answer.

24 A. It's come to my attention on my  
25 past phone that it had a setting that was

1

2 removing text messages every 30 days.

3 Q. I'll ask -- so, I appreciate  
4 that. I'll ask a slightly different  
5 question.

6 With respect to deleting  
7 messages from Mr. Nick Giordano, did you  
8 manually delete any messages? In other  
9 words, did you, you know, look at a  
10 specific message and delete that message  
11 or that conversation?

12 A. No.

13 Q. At what point did you become  
14 aware that your prior phone had an auto  
15 delete setting turned on?

16 A. I would say toward the end of  
17 2024.

18 Q. And so you learned that before  
19 you turned that phone in?

20 MR. MULE: Objection. I -- I --  
21 go ahead.

22 A. It -- just repeat that. I  
23 didn't follow.

24 Q. Sure.

25 You said you became aware that

1

2 there was an auto delete feature on your  
3 prior phone.

4 A. Yes.

5 Q. And so my question is did you  
6 figure that out before you turned that  
7 phone in to Verizon?

8 A. No.

9 Q. How did you learn, and again I'm  
10 not asking for any discussions that you  
11 had with your lawyers, but how had you  
12 come to find out that your prior phone had  
13 an auto delete feature turned on?

14 MR. MULE: I'm just going to --

15 MR. LABUDA: Yeah, instruct the  
16 witness not to answer the question if,  
17 you know, inasmuch as you're  
18 disclosing any attorney/client  
19 privileged communications.

20 If you can answer the question,  
21 you can answer the question. If you  
22 can't --

23 A. I can't answer the question  
24 'cause the conversation was with my  
25 attorneys.

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2 MR. LABUDA: We'll move to  
3 strike, but -- but -- and object, but,  
4 you know, okay.

5 BY MR. GIBBS:

6 Q. For your prior phone, did you  
7 provide your old phone to your attorneys  
8 at some point so that it could be searched  
9 for relevant documents or communications?

10 A. Repeat that again.

11 Q. Sure.

12 Did you provide your old phone  
13 to your attorneys at some point so that it  
14 could be searched for relevant  
15 communications or documents?

16 A. I did.

17 Q. Do you recall approximately when  
18 you provided the old phone to your  
19 lawyers?

20 A. Approximately a little bit  
21 before I got a new phone, and I would say,  
22 you know, some -- somewhere toward the end  
23 of 2024.

24 Q. Have you heard of a company  
25 called We Recover Data?



1

2 A. Yes.

3 Q. How had you learned about that  
4 company?

5 A. I don't recall.

6 Q. When did you first learn about  
7 We Recover Data?

8 A. I don't -- I don't recall. I  
9 feel like it was the same question as the  
10 one before that.

11 Q. So, the first one was how did  
12 you learn about them.

13 A. Okay. I don't remember and I  
14 don't remember when.

15 Exact -- I don't remember  
16 exactly when, but I know it was somewhere  
17 in mid, early 2023.

18 Q. Did you personally initiate  
19 communications with We Recover Data?

20 A. I don't remember. I don't  
21 believe so.

22 Q. Do you remember why you became  
23 involved with We Recover Data?

24 A. What do you mean by that?

25 Q. I'll ask the question a

1

2 different way.

3 Did We Recover Data provide any  
4 services to you?

5 A. Yes.

6 Q. And what were those services?

7 A. I don't know if they provided  
8 the services. We'll go back to the first  
9 question. I don't know if they provided  
10 the service to me directly. I think they  
11 provided it to my attorneys.

12 THE WITNESS: Is that okay? Is  
13 that -- did I answer that correctly?

14 MR. LABUDA: Yeah. I mean,  
15 you're asking about services with  
16 respect to his old phone regardless of  
17 who it was.

18 MR. GIBBS: Presumably, yes.

19 Yes, we're just asking about We  
20 Recover Data and what services they  
21 provided. So I think that's -- I  
22 think that's -- I think you answered  
23 the question.

24 MR. LABUDA: Yeah, that's fine.

25 THE WITNESS: Okay.

1

2 BY MR. GIBBS:

3 Q. Did you personally have contact  
4 with We Recover Data?

5 A. I don't recall.

6 Q. Did you provide your old phone  
7 to We Recover Data?

8 A. Yes.

9 Q. And do you recall what was done  
10 with your old phone?

11 A. I don't know the exact  
12 terminology, but they took a -- an image  
13 of, you know, the hard drive, if you will.  
14 I'm not sure if that's the -- the correct  
15 terminology for the phone.

16 Q. Did you personally get a copy of  
17 the hard drive from the phone?

18 A. I don't remember how I -- I  
19 don't remember if I got it or my attorneys  
20 got it.

21 Q. Was reaching out to We Recover  
22 Data, was that your idea to do that?

23 A. I don't recall whose idea.

24 Q. Did We Recover Data perform any  
25 other services for you?



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MR. LABUDA: And just the same

3

objection.

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But you can answer the question.

5

A. Repeat the question again.

6

Q. Did you understand that your old

7

phone had information on it that could be

8

relevant to the lawsuit at the time you

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turned it in to Verizon?

10

MR. LABUDA: Same objection.

11

But you can answer.

12

A. I -- I can't remember what I was

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thinking at that point.

14

Q. And the follow-up question to

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that is why did you think you could

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exchange it so that it would be no longer

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available for purposes of this case?

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MR. LABUDA: Objection.

19

But you can answer.

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A. Repeat that slowly, or rephrase

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that if you can.

22

Q. Sure.

23

Did you think it was appropriate

24

to exchange the phone even though it would

25

be no longer available for purposes of

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2 this case?

3 MR. LABUDA: Objection.

4 But you can answer.

5 A. I asked the Verizon technician  
6 to copy my information from my old phone  
7 onto the new phone. So I didn't see any  
8 harm in that.

9 I don't know if I necessarily  
10 had a litigation on my mind or just making  
11 sure that all of my information was  
12 properly on the phone.

13 MR. GIBBS: Okay.

14 I think we can take a break for  
15 a couple minutes.

16 MR. LABUDA: Okay.

17 MR. GIBBS: We're towards the  
18 and of our questioning, so.

19 MR. LABUDA: Okay.

20 THE VIDEOGRAPHER: We are going  
21 off the record.

22 The time is 11:35.

23 (Recess taken.)

24 THE VIDEOGRAPHER: We are going  
25 back on the record.

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2                   The time is 11:56.

3       BY MR. GIBBS:

4           Q.       After our break, Mr. Caroleo, I  
5       have just a few more questions to ask of  
6       you.

7                   The first is we talked earlier  
8       about, you know, some backups that had  
9       been made by We Recover Data.

10                  Other than the vendors that  
11       we've talked about today, are you aware of  
12       any other alternative source or sources  
13       from which any of your old text message  
14       data could be recovered?

15                  MR. LABUDA:   You can answer.

16           A.       Repeat the question?

17           Q.       Sure.

18                  Other than the vendors that  
19       we've talked about today, We Recover Data  
20       and the others, are you aware of any other  
21       source from which your old text message  
22       data could be recovered?

23           A.       No.

24           Q.       Did you tell your attorneys that  
25       you were going to get a new phone?

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2 MR. LABUDA: Objection.

3 Don't answer the question.

4 Attorney/client privilege.

5 BY MR. GIBBS:

6 Q. Did your lawyers tell you that  
7 you should not turn in your old phone?

8 MR. LABUDA: Same objection.

9 Don't answer.

10 BY MR. GIBBS:

11 Q. Going back in time, were you  
12 instructed by anyone to preserve documents  
13 in March 2023 when the Complaint was  
14 served?

15 MR. LABUDA: I think he's  
16 already answered the question.

17 But I'm going to instruct the  
18 witness to answer the question, if you  
19 can, without disclosing any  
20 attorney/client privileged  
21 communications. If you can't answer,  
22 you can say you can't answer the  
23 question. Otherwise if you can answer  
24 the question without disclosing any  
25 attorney/client privileged --

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2 A. I don't -- I don't remember.

3 MR. GIBBS: I'll rephrase the  
4 question a bit.

5 BY MR. GIBBS:

6 Q. Were you instructed by any  
7 attorneys to preserve documents in March  
8 2023 when the Complaint was filed and  
9 served in this case?

10 MR. LABUDA: I object.

11 Don't answer.

12 BY MR. GIBBS:

13 Q. At the time of the injunction  
14 hearing in this case, had you been  
15 instructed by an attorney at that point to  
16 preserve documents?

17 MR. LABUDA: Objection.

18 Don't answer.

19 BY MR. GIBBS:

20 Q. Last -- I'm sorry. Actually,  
21 June of 2023, I believe, we had a  
22 mediation conference with Magistrate Judge  
23 Tiscione that you were present at.

24 At the time of that mediation  
25 conference, had an attorney instructed you



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2 at that time to preserve documents?

3 MR. LABUDA: Objection.

4 Don't answer.

5 BY MR. GIBBS:

6 Q. Is it correct that you first  
7 recall being instructed to preserve  
8 documents at the end of 2024?

9 MR. LABUDA: Objection.

10 MR. MULE: Objection.

11 MR. LABUDA: Don't answer.

12 MR. MULE: And I think that  
13 miss --

14 MR. LABUDA: Don't answer with  
15 respect to -- yeah.

16 MR. MULE: -- misstates the  
17 record.

18 MR. LABUDA: Yeah, we're just  
19 going to direct him not to answer if  
20 it discloses attorney/client  
21 privileged communications.

22 And I think there was a motion  
23 to strike an answer there. So I'm  
24 going to direct him not to answer.

25

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2 BY MR. GIBBS:

3 Q. Did you advise your attorneys or  
4 tell your attorneys that you were turning  
5 in your old phone?

6 MR. LABUDA: Objection.

7 Don't answer.

8 I think you had asked that  
9 already.

10 BY MR. GIBBS:

11 Q. Have you been following and will  
12 you continue to follow your attorneys'  
13 instructions not to answer questions on  
14 the basis of privilege?

15 A. What is the question?

16 Q. I'll ask it -- I'll ask it  
17 slightly different.

18 Today during your deposition,  
19 have you been following your attorneys'  
20 instructions with respect to instructions  
21 not to answer questions on the basis of  
22 privileges?

23 A. Am I going to follow those --  
24 continue to follow those directions?

25 Q. Have you been today during the

C E R T I F I C A T E

I, MARIE FOLEY, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public for the State of New York, do hereby certify that prior to the commencement of the examination, DOMINICK CAROLEO, was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

MARIE FOLEY

COURT REPORTER

Registered Merit Reporter  
Certified Realtime Reporter

Notary Public

Dated: March 19, 2025